THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20251 OF 2005

DATED:14.9.2005

Between:

M/s.Shree Malani Industries (Private) Limited

…Petitioner

And

State of Andhra Pradesh

Rep. by Principal Secretary,

Department of Industries and Commerce (I.P)

Secretariat, Hyderabad and another

…Respondents

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ORDER:

The petitioner company is a medium scale industry, which established rubberized coir products at Jinnaram Mandal, Medak District. In this Writ Petition the petitioner assails the orders of the Government in G.O.Ms.No.306, dt.10.12.2004 whereby and whereunder the Government ordered to keep earlier orders in G.O.Ms.No.290, dt.30.11.2004 in abeyance. The impugned G.O. is assailed on the ground of denial of legitimate expectation and as a bar on the principle of promissory estoppel.

The fact of the matter need not be elaborately mentioned. Suffice to notice the

following. The Government of Andrha Pradesh issued orders in G.O.Ms.No.588, dt.20.11.2000 extending the sales tax incentives to industrial projects under a scheme known as Scheme of Target 2000. As per the said scheme so as to become eligible for claiming sales tax incentives, the unit should have commenced commercial production on or before 31.3.2002. The petitioner industry admittedly could not commence commercial production though the same was set up sometime in 2001 and also obtained eligibility certificate dt.18.1.2001 from the second respondent.

The Government of Andhra Pradesh issued G.O.Ms.No.290, dt.30.11.2004 modifying instructions in G.O.Ms.No.588 to the effect that all the industries which would go into commercial productions on or before 31.3.2005 would also become eligible. Even here, admittedly petitioner unit did not commence commercial production. They commenced commercial production on 28.3.2005 and approached the authorities for sanction of 100% sales tax incentive on machinery and fixed capital investment. The petitioner was informed that orders in G.O.Ms.No.290 were not given effect in view of subsequent orders in G.O.Ms.No.306 dt.10.12.2004 keeping G.O.Ms.No.290 in abeyance.

Admittedly the petitioner commenced production with effect from 28.3.2005 as seen from the letter of the Chairman and Director of the petitioner company to second respondent. Even before they commence commercial production, the Government by issuing G.O.Ms.No.306 decided not go give effect to the instructions extending eligibility period upto 31.3.2005. Nevertheless, learned counsel for the petitioner, Sri C.Gunaranjan submits that first respondent is estopped from denying the benefit which accrued to the petitioner. The submission cannot be accepted.

Even according to the petitioner the eligibility to claim sales tax incentive was acquired by the petitioner only from 28.3.2005. As on that date, there was no policy to give incentives for the industries which would go into production from subsequent date, i.e., 28.3.2005. The doctrine of promissory estoppel is an equitable doctrine and therefore it must yield to equity. When there was no scheme in force as on the date of commencement of production by the petitioner, it would be inequitable to compel the Government to extend the benefit to the petitioner (See **Union of India v. Godfrey Philips India Limited**). The submission based on principle of legitimate expectation cannot be accepted. The legitimate expectation can arise only when a person fulfils other eligibility criteria, and a person who does not satisfy eligibility criteria for conferment of any benefit cannot claim legitimate expectation.

The Writ Petition is devoid of merit and is accordingly dismissed. No costs.

(V.V.S.RAO, J)

14.9.2005

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